

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1113, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 33-34-8-1, AS AMENDED BY P.L.85-2004,
- 4 SECTION 15, AND AS AMENDED BY P.L.95-2004, SECTION 3,
- 5 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 6 [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following fees and costs
- 7 apply to cases in the small claims court:
- 8 (1) A township docket fee of five dollars (\$5) plus forty-five
- 9 percent (45%) of the infraction or ordinance violation costs fee
- 10 under IC 33-37-4-2.
- 11 (2) The bailiff's service of process by registered or certified mail
- 12 fee of thirteen dollars (\$13) for each service.
- 13 (3) The cost for the personal service of process by the bailiff or
- 14 other process server of thirteen dollars (\$13) for each service.
- 15 (4) Witness fees, if any, in the amount provided by IC 33-37-10-3
- 16 to be taxed and charged in the circuit court.
- 17 (5) A redocketing fee, if any, of five dollars (\$5).
- 18 (6) A document storage fee under IC 33-37-5-20.
- 19 (7) An automated record keeping fee under IC 33-37-5-21.
- 20 (8) A late fee, if any, under IC 33-37-5-22.
- 21 (9) *A judicial administration fee under IC 33-37-5-21.2.*

~~(9)~~ (10) *A judicial insurance adjustment fee under IC 33-37-5-25.*

(11) A judicial salaries fee under IC 33-37-5-27.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 2. IC 33-37-4-1, AS AMENDED BY P.L.85-2004, SECTION 16, AND AS AMENDED BY P.L.95-2004, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

(11) A document storage fee (IC 33-37-5-20).

(12) An automated record keeping fee (IC 33-37-5-21).

(13) A late payment fee (IC 33-37-5-22).

(14) A sexual assault victims assistance fee (IC 33-37-5-23).

1 (15) *A judicial administration fee ~~under~~ (IC 33-37-5-21.2).*

2 ~~(15)~~ (16) *A judicial insurance adjustment fee ~~under~~*
 3 *(IC 33-37-5-25).*

4 **(17) A judicial salaries fee (IC 33-37-5-27).**

5 (c) Instead of the criminal costs fee prescribed by this section, the
 6 clerk shall collect a pretrial diversion program fee if an agreement
 7 between the prosecuting attorney and the accused person entered into
 8 under IC 33-39-1-8 requires payment of those fees by the accused
 9 person. The pretrial diversion program fee is:

10 (1) an initial user's fee of fifty dollars (\$50); and

11 (2) a monthly user's fee of ten dollars (\$10) for each month that
 12 the person remains in the pretrial diversion program.

13 (d) The clerk shall transfer to the county auditor or city or town
 14 fiscal officer the following fees, not later than thirty (30) days after the
 15 fees are collected:

16 (1) The pretrial diversion fee.

17 (2) The marijuana eradication program fee.

18 (3) The alcohol and drug services program user fee.

19 (4) The law enforcement continuing education program fee.

20 The auditor or fiscal officer shall deposit fees transferred under this
 21 subsection in the appropriate user fee fund established under
 22 IC 33-37-8.

23 (e) Unless otherwise directed by a court, if a clerk collects only part
 24 of a criminal costs fee from a defendant under this section, the clerk
 25 shall distribute the partial payment of the criminal costs fee as follows:

26 (1) The clerk shall apply the partial payment to general court
 27 costs.

28 (2) If there is money remaining after the partial payment is applied
 29 to general court costs under subdivision (1), the clerk shall
 30 distribute the remainder of the partial payment for deposit in the
 31 appropriate county user fee fund.

32 (3) If there is money remaining after distribution under
 33 subdivision (2), the clerk shall distribute the remainder of the
 34 partial payment for deposit in the state user fee fund.

35 (4) If there is money remaining after distribution under
 36 subdivision (3), the clerk shall distribute the remainder of the
 37 partial payment to any other applicable user fee fund.

38 (5) If there is money remaining after distribution under

1 subdivision (4), the clerk shall apply the remainder of the partial
2 payment to any outstanding fines owed by the defendant.

3 SECTION 3. IC 33-37-4-2, AS AMENDED BY P.L.85-2004,
4 SECTION 17, AND AS AMENDED BY P.L.95-2004, SECTION 5,
5 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in
7 subsections (d) and (e), for each action that results in a judgment:

- 8 (1) for a violation constituting an infraction; or
- 9 (2) for a violation of an ordinance of a municipal corporation (as
10 defined in IC 36-1-2-10);

11 the clerk shall collect from the defendant an infraction or ordinance
12 violation costs fee of seventy dollars (\$70).

13 (b) In addition to the infraction or ordinance violation costs fee
14 collected under this section, the clerk shall collect from the defendant
15 the following fees, if they are required under IC 33-37-5:

- 16 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
17 IC 33-37-5-4).
- 18 (2) An alcohol and drug services program user fee
19 (IC 33-37-5-8(b)).
- 20 (3) A law enforcement continuing education program fee
21 (IC 33-37-5-8(c)).
- 22 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- 23 (5) A highway work zone fee (IC 33-37-5-14).
- 24 (6) A deferred prosecution fee (IC 33-37-5-17).
- 25 (7) A jury fee (~~IC 33-19-6-17~~) (IC 33-37-5-19).
- 26 (8) A document storage fee (IC 33-37-5-20).
- 27 (9) An automated record keeping fee (IC 33-37-5-21).
- 28 (10) A late payment fee (IC 33-37-5-22).
- 29 (11) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).
- 30 ~~(12)~~ (12) A judicial insurance adjustment fee ~~under~~
31 (IC 33-37-5-25).

32 **(13) A judicial salaries fee (IC 33-37-5-27).**

33 (c) The clerk shall transfer to the county auditor or fiscal officer of
34 the municipal corporation the following fees, not later than thirty (30)
35 days after the fees are collected:

- 36 (1) The alcohol and drug services program user fee
37 (IC 33-37-5-8(b)).
- 38 (2) The law enforcement continuing education program fee

1 (IC 33-37-5-8(c)).

2 (3) The deferral program fee (subsection e).

3 The auditor or fiscal officer shall deposit the fees in the user fee fund
4 established under IC 33-37-8.

5 (d) The defendant is not liable for any ordinance violation costs fee
6 in an action if all the following apply:

7 (1) The defendant was charged with an ordinance violation subject
8 to IC 33-36.

9 (2) The defendant denied the violation under IC 33-36-3.

10 (3) Proceedings in court against the defendant were initiated under
11 IC 34-28-5 (or IC 34-4-32 before its repeal).

12 (4) The defendant was tried and the court entered judgment for the
13 defendant for the violation.

14 (e) Instead of the infraction or ordinance violation costs fee
15 prescribed by subsection (a), the clerk shall collect a deferral program
16 fee if an agreement between a prosecuting attorney or an attorney for
17 a municipal corporation and the person charged with a violation entered
18 into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires
19 payment of those fees by the person charged with the violation. The
20 deferral program fee is:

21 (1) an initial user's fee not to exceed fifty-two dollars (\$52); and

22 (2) a monthly user's fee not to exceed ten dollars (\$10) for each
23 month the person remains in the deferral program.

24 (f) The fees prescribed by this section are costs for purposes of
25 ~~IC 34-28-5-4~~ **IC 34-28-5-5** and may be collected from a defendant
26 against whom judgment is entered. Any penalty assessed is in addition
27 to costs.

28 SECTION 4. IC 33-37-4-3, AS AMENDED BY P.L.85-2004,
29 SECTION 18, AND AS AMENDED BY P.L.95-2004, SECTION 6,
30 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The clerk shall collect a
32 juvenile costs fee of one hundred twenty dollars (\$120) for each action
33 filed under any of the following:

34 (1) IC 31-34 (children in need of services).

35 (2) IC 31-37 (delinquent children).

36 (3) IC 31-14 (paternity).

37 (b) In addition to the juvenile costs fee collected under this section,
38 the clerk shall collect the following fees, if they are required under

- 1 IC 33-37-5:
- 2 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 3 IC 33-37-5-4).
- 4 (2) A marijuana eradication program fee (IC 33-37-5-7).
- 5 (3) An alcohol and drug services program user fee
- 6 (IC 33-37-5-8(b)).
- 7 (4) A law enforcement continuing education program fee
- 8 (IC 33-37-5-8(c)).
- 9 (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- 10 (6) A document storage fee (IC 33-37-5-20).
- 11 (7) An automated record keeping fee (IC 33-37-5-21).
- 12 (8) A late payment fee (IC 33-37-5-22).
- 13 (9) *A judicial administration fee ~~under~~ (IC 33-37-5-21.2).*
- 14 ~~(9)~~ **(10) A judicial insurance adjustment fee ~~under~~**
- 15 **(IC 33-37-5-25).**
- 16 **(11) A judicial salaries fee (IC 33-37-5-27).**
- 17 (c) The clerk shall transfer to the county auditor or city or town
- 18 fiscal officer the following fees not later than thirty (30) days after they
- 19 are collected:
- 20 (1) The marijuana eradication program fee (IC 33-37-5-7).
- 21 (2) The alcohol and drug services program user fee
- 22 (IC 33-37-5-8(b)).
- 23 (3) The law enforcement continuing education program fee
- 24 (IC 33-37-5-8(c)).
- 25 The auditor or fiscal officer shall deposit the fees in the appropriate user
- 26 fee fund established under IC 33-37-8."
- 27 Page 2, between lines 8 and 9, begin a new line block indented and
- 28 insert:
- 29 **"(8) A judicial salaries fee (IC 33-37-5-27)."**
- 30 Page 2, between lines 33 and 34, begin a new line block indented
- 31 and insert:
- 32 **"(6) A judicial salaries fee (IC 33-37-5-27)."**
- 33 Page 2, between lines 34 and 35, begin a new paragraph and insert:
- 34 "SECTION 7. IC 33-37-4-7, AS AMENDED BY P.L.85-2004,
- 35 SECTION 22, AND AS AMENDED BY P.L.95-2004, SECTION 10,
- 36 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 37 [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as provided under
- 38 subsection (c), the clerk shall collect from the party filing the action a

1 probate costs fee of one hundred twenty dollars (\$120) for each action
 2 filed under any of the following:

- 3 (1) IC 6-4.1-5 (determination of inheritance tax).
- 4 (2) IC 29 (probate).
- 5 (3) IC 30 (trusts and fiduciaries).

6 (b) In addition to the probate costs fee collected under subsection
 7 (a), the clerk shall collect from the party filing the action the following
 8 fees, if they are required under IC 33-37-5:

- 9 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 10 IC 33-37-5-4).
- 11 (2) A document storage fee (IC 33-37-5-20).
- 12 (3) An automated record keeping fee (IC 33-37-5-21).
- 13 (4) *A judicial administration fee under (IC 33-37-5-21.2).*
- 14 ~~(4) (5) A judicial insurance adjustment fee under (IC 33-37-5-25).~~
- 15 **(6) A judicial salaries fee (IC 33-37-5-27).**

16 (c) A clerk may not collect a court costs fee for the filing of the
 17 following exempted actions:

- 18 (1) Petition to open a safety deposit box.
- 19 (2) Filing an inheritance tax return, unless proceedings other than
 20 the court's approval of the return become necessary.
- 21 (3) Offering a will for probate under IC 29-1-7, unless
 22 proceedings other than admitting the will to probate become
 23 necessary.

24 SECTION 8. IC 33-37-5-21.2 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21.2. (a) This
 26 subsection does not apply to the following:

- 27 (1) A criminal proceeding.
- 28 (2) A proceeding for an infraction violation.
- 29 (3) A proceeding for an ordinance violation.

30 In each action filed in a court described in IC 33-37-1-1, the clerk shall
 31 collect a judicial administration fee of, in the period beginning July 1,
 32 2004, and ending June 30, 2005, one dollar (\$1) and after June 30,
 33 2005, ~~two~~ **three** dollars ~~(\$2)~~ **(\$3)**.

34 (b) In each action in which a person is:

- 35 (1) convicted of an offense;
- 36 (2) required to pay a pretrial diversion fee;
- 37 (3) found to have violated an infraction; or
- 38 (4) found to have violated an ordinance;

the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, ~~two~~ **three** dollars ~~(\$2)~~ **(\$3)**."

Page 2, line 37, delete "This" and insert "**Except as provided in subsection (c), this**".

Page 3, between lines 3 and 4, begin a new paragraph and insert:

"(c) This section does not apply to an action in which service is made by publication in accordance with Indiana Trial Rule 4.13.

SECTION 9. IC 33-37-5-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27. (a) This subsection does not apply to the following:**

(1) A criminal proceeding.

(2) A proceeding for an infraction violation.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 or IC 33-34, the clerk shall collect a judicial salaries fee of nineteen dollars (\$19).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have violated an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a judicial salaries fee of nineteen dollars (\$19)."

Page 5, line 22, delete "the county" and insert "**each city or town fiscal officer**".

Page 5, line 23, delete "auditor".

Page 5, between lines 23 and 24, begin a new paragraph and insert:

"(l) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee collected under IC 33-37-5-27."

Page 8, after line 15, begin a new paragraph and insert:

"(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee collected under IC 33-37-5-27.

SECTION 14. IC 33-37-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars (\$6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to twenty-five and twenty-one hundredths percent (25.21%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and

1 (2) after June 30, 2005, two million ~~two~~ **seven** hundred thousand
 2 dollars ~~(\$2,200,000)~~ **(\$2,700,000)**.

3 SECTION 15. IC 34-26-5-16 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. Fees for:

- 5 (1) filing;
 6 (2) service of process;
 7 (3) witnesses; or
 8 (4) subpoenas;
 9 may not be charged for a proceeding seeking relief or enforcement as
 10 provided in this chapter, **including a proceeding concerning a foreign**
 11 **protection order as described in section 17 of this chapter.** This
 12 section may not be construed to prevent the collecting of costs from a
 13 party against whom an order for protection is sought if the court finds
 14 a claim to be meritorious and issues an order for protection under this
 15 chapter."

16 Renumber all SECTIONS consecutively.
 (Reference is to HB 1113 as reprinted February 8, 2005.)

and when so amended that said bill be reassigned to Senate Committee on Appropriations.

Committee Vote: Yeas 10, Nays 0.

Bray

Chairperson